

U.S. Pat. Appln. Serial No. 09/445,043

Page 1

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICIAL

Applicant : Baird-Smith et al.

Serial No : 09/445,043

Filed : March 20, 2000

Title : A CONTAINER CLOSURE

Docket No : 350013-65

Group Art Unit: 3727

Examiner: Robin Annette Hylton

RECEIVED  
CENTRAL FAX CENTER

AUG 16 2004

## CERTIFICATE OF TRANSMISSION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313I hereby certify that this correspondence is being  
transmitted by facsimile to the USPTO via fax number (703)  
872-4306 on August 16, 2004. (37 CFR 1.8)*Brea K. Taken*  
Brea K. TakenRESPONSE TO ELECTION/RESTRICTION REQUIREMENT

Dear Sir:

In an Office Action mailed July 15, 2004, the Examiner required restriction between Group I, claims 1, 3, 4, 6, 8-11, and 13; and Group II, claims 14-18 and 22.

In response to this Office Action, Applicant provisionally elects the claims of Group I with traverse.

Remarks

The Examiner has required restriction between Group I, claims 1, 3, 4, 6, 8-11 and 13; and Group II, claims 14-18 and 22 stating that the groups of inventions do not form a single general inventive concept under PCT Rule 13.1 as the Group I inventions drawn to a container assembly do not require an adhesive to secure the flexible membrane to an open end of a container.

As the Examiner is aware, a Request for Continued Examination was filed on April 19, 2004. Claims 1, 3, 4, 6, 8-11 and 13, i.e. the claims the Examiner has identified as Group I, were subject to the Final Office Action dated October 21, 2003. These claims included the identical limitation regarding a "seal" between the flexible membrane and the container as claims 1, 3, 4, 6, 8-11 and 13 presently on file. Similarly, the claims the Examiner has identified as Group II

U.S. Pat. Appln. Serial No. 09/445,043  
Page 2

contained the identical limitation, i.e. "adhesively securing" the flexible membrane on the open end of the container "thereby forming a seal," when the October 21 Final Office Action issued and as are currently present in the application. The only difference between the claims presently before the Examiner and the claims that were subject to the final office action is that the subject limitations have been amended for what appears to be readability. Consequently, the Examiner has previously searched all the claims that are subject to restriction. No additional fields of search will be required to be searched, and no additional classification will be required. Therefore, absolutely no additional burden will be borne by the Examiner if the restriction requirement is withdrawn and the Group II claims remain subject to examination.

Because the authority to require the application to be restricted is discretionary, not mandatory, and because examining all the claims presently on file will not require any additional burden on the Examiner as the virtually identical claims have already been examined, no additional searching is required and no additional classifications are involved, Applicants respectfully request reconsideration and withdrawal of the restriction requirement. If the Examiner does not withdraw the restriction requirement, Applicants reserve the right to pursue the non-elected claims in a divisional application.

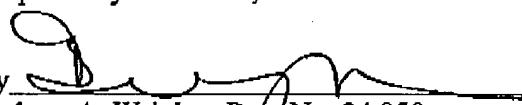
Applicant believes that this response addresses all issues raised by the Examiner. However, if other issues or questions arise, the Examiner is respectfully requested to contact Barbara A. Wrigley at (612) 607-7595.

U.S. Pat. Appln. Serial No. 09/445,043  
Page 3

It is believed that no fees are required with this filing, as the response is filed within the one-month statutory period for reply. However, if any fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees, including fees for any extension of time, to Deposit Account No. 50-1901 (Attorney Docket No. 350013-65).

Respectfully submitted,

Dated: August 16, 2004

By   
Barbara A. Wrigley, Reg. No. 34,950  
Attorneys for Applicant  
Oppenheimer Wolff & Donnelly LLP  
45 South Seventh Street  
3300 Plaza VII  
Minneapolis, MN 55402  
Telephone: (612) 607-7595